

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

INDEMNITY INSURANCE COMPANY  
OF NORTH AMERICA, LYNDEN  
TRANSPORT, INC.,

Plaintiffs,

vs.

TOTEM OCEAN TRAILER EXPRESS,  
INC.; M.V. NORTH STAR,

Defendants.

IN ADMIRALTY

NO.

COMPLAINT

I.

This is an admiralty or maritime claim within the meaning of Rule 9(h), Federal Rules of Civil Procedure, and is within the jurisdiction of this Court pursuant to the general maritime law and 28 U.S.C. § 1333.

II.

At and during all the times hereinafter mentioned, plaintiffs had and now have the status and places of business stated in Schedule A hereto annexed and by this reference made a

1 part hereof. Plaintiffs are the shippers, exporters, notify parties, ultimate consignees, importers  
2 and/or underwriters of the cargo described herein as set forth in Schedule A, and are bringing  
3 this action on behalf of and in a representative capacity for any of those interests not named as  
4 plaintiffs in the complaint.

5 **III.**

6 At and during all the times hereafter mentioned, the defendants had and now have the  
7 status and places of business stated in Schedule A. Defendant ocean carrier was and now is  
8 engaged in business as a common carrier of merchandise by water for hire, and owned,  
9 operated, managed, chartered and/or controlled the defendant vessel. Defendant ocean carrier  
10 maintains an office and place of business within this district and within the jurisdiction of this  
11 Court at the address stated in Schedule A.  
12

13 **IV.**

14 Defendant vessel is a general ship engaged in the common carriage of goods by water  
15 between the ports set forth on Schedule A. The defendant vessel is now or will be during the  
16 pendency of process hereunder within this district and within the jurisdiction of this Court.  
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18 **V.**

19 On or about the date and at the port(s) of shipment stated in Schedule A, there was  
20 delivered to the defendants in good condition the shipment described in Schedule A, which  
21 defendants received, accepted and agreed to transport for certain consideration to the port(s) of  
22 destination stated in Schedule A.  
23

24 **VI.**

25 Thereafter, on or about the date(s) set forth in Schedule A, the subject shipment(s)  
arrived at the port(s) of destination. However, on information and belief, in breach of the valid  
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1 terms of the contracts of carriage and due to the negligence and breach of contract of the  
2 defendant(s), said shipment(s) arrived not in the same good order and condition, as set forth in  
3 Schedule A, as when received by defendant(s) at the port(s) of shipment.

4 **VII.**

5 Plaintiffs have performed all duties and obligations on their part to be performed.

6 **VIII.**

7 Plaintiffs suffered damages as set forth on Schedule A, no part of which has been paid.

8 WHEREFORE, plaintiffs pray:

- 9 1. That process in due form of law according to the practice of this Court issue  
10 against defendants;
- 11 2. That judgment be entered in favor of plaintiffs against defendant(s) in the  
12 amount set forth on Schedule A together with interest and costs;
- 13 3. That process in due form of law according to the practice of this Court, in  
14 maritime causes, issue against the defendant vessel, her engines, tackle, furniture and apparel,  
15 and that all persons having an interest in said vessel be cited to appear in answer to this  
16 Complaint and that the vessel be sold to pay the damages sustained by plaintiffs, together with  
17 interest and costs; and
- 18 4. That plaintiffs be awarded such other, further and different relief as this Court  
19 may deem just and proper.

DATED this 30<sup>th</sup> day of December, 2013.

CALFO HARRIGAN LEYH & EAKES LLP

By Shane Cramer  
Michelle Buhler, WSBA #16235  
Shane Cramer, WSBA #35099  
Counsel for Plaintiffs

STATE OF WASHINGTON )  
                            ) ss.  
COUNTY OF KING         )

Shane Cramer, being first duly sworn on oath deposes and says: That he is one of the attorneys for the above-named plaintiffs, and as such is authorized to and does make this verification for and on behalf of said plaintiffs; that he has read the within and foregoing Complaint, knows the contents thereof and believes the same to be true.

SUBSCRIBED AND SWORN TO before me this 30<sup>th</sup> day of December, 2013.

Shane Cramer  
Notary Public in and for the State of Washington residing at Issaquah  
My commission expires: 5/29/16



## **SCHEDULE A**

**Plaintiffs' Status and Place of Business:**

Indemnity Insurance Company of North America  
510 Walnut Street  
Philadelphia, PA 19106

**Lynden Transport, Inc.**  
18000 International Blvd., Ste 800  
Seattle, WA 98188

**Defendant Ocean Carrier's Status and Place of Business:**

Totem Ocean Trailer Express, Inc.  
32001 32<sup>nd</sup> Ave. S., Suite 200  
Federal Way, WA

**Name of Defendant Vessel(s):**

M.V. NORTH STAR

## **Contract of Carriage:**

**Totem Ocean Trailer Express, Inc. / Lynden Transport, Inc.  
Transportation Agreement dated December 9, 2010.**

**Port of Shipment and Date of Loading:**

Tacoma, WA: December 26, 2012

**Port of Destination and Date of Arrival:**

Anchorage, AK; December 31, 2012

**Shipper:**

## **Lynden Transport, Inc.**

1           Consignee:

2           Lynden Transport, Inc.

3           Description of Shipment:

4           Two NC Power Systems Co. Model C-27 Generators

6           Nature of Loss and/or Damage:

7           Physical damage, including bending, breakage, distortion, buckling, etc.

9           Amount of Loss:

10          Approximately \$260,000 or such other amount as proven at trial.

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